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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/768,887	02/02/2004	Michael J. Curtis	119-P-05	7932
40801	7590	07/18/2006	EXAMINER	
NICHOLAS A. BRANNEN 104 SOUTH MAIN STREET, SUITE 300 FOND DU LAC, WI 54935			STEWART, ALVIN J	
			ART UNIT	PAPER NUMBER
			3738	
DATE MAILED: 07/18/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/768,887

Applicant(s)

CURTIS, MICHAEL J.

Examiner

Alvin J. Stewart

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2006.
- 2a) ☒ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 10-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>01/24/05;12/19/05</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

***Response to Amendment***

Claims 1-9 and 14-33 are cancelled.

***Response to Arguments***

Applicant's arguments with respect to claims 10-13 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garcia US Patent 3,400,408 in view of Chen US Patent 6,322,092 B1.

Garcia discloses a prosthesis comprising a first end (45), a first prosthetic component (60), a second end (44), a second prosthetic component (30) and a main body (40) between the first end and the second end.

Regarding the distance between the first component and the second component, Figure 3 clearly discloses the wherein clause. The distance is partially the selected length of the main body.

Regarding claim 10, the examiner has interpreted the claims as following: socket (92), a first prosthetic component (90), a sleeve module (60), a spacer module (46), a second prosthetic component (20) and a foot (5).

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Garcia discloses the invention substantially as claimed. However, Garcia does not disclose a sleeve module having an external surface with a clamp and a second spacer module having a second length and at least one al threaded end.

Chen discloses a connecting member having a sleeve module (20) having an internal surface with threads (24) and an external surface with a clamp (22 & 23) for the purpose of locking element structure 10 to element structure 54 (see col. 2, lines 38-67).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Garcia reference with the locking clamp of the Chen reference in order to completely lock the connecting member to each other.

Regarding the second spacer module, at the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to modify the spacer module of the Garcia reference by adding a second spacer module in order to increase the length of the prosthesis or adding external threads because Applicant has not disclosed that by adding a second spaced module with external threads provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the spaced module of the Garcia reference because it would perform equally as well.

Therefore, it would have been an obvious matter of design choice to modify the Garcia reference to obtain the invention as specified in claim 13.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin J. Stewart whose telephone number is 571-272-4760. The examiner can normally be reached on Monday-Friday 7:00AM-5:30PM(1 Friday B-week off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alvin J Stewart  
Primary Examiner  
Art Unit 3738

July 6, 2006.

# Attachment.

Sept. 10, 1968

R. V. GARCIA

3,400,408

PROSTHETIC LIMB HAVING AN ELASTIC COVERING

Filed Oct. 23, 1964

4 Sheets-Sheet 1

FIG. 1

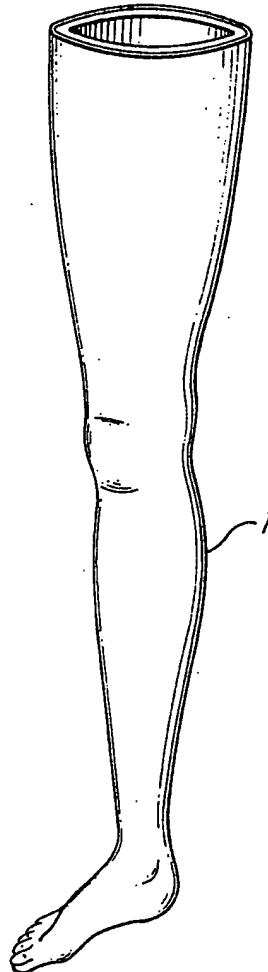


FIG. 3

